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Cruise ship crime jurisdiction often murky

Local cops usually won't get involved

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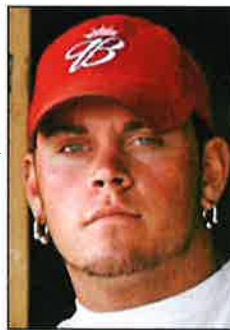
Utah construction worker Kade McRae sat alone in his cruise ship stateroom enveloped in uncertainty. It had been less than a day since the ship had sailed from San Diego and just a few hours since he had pushed Windmill Farms grocer Scott Boney during an altercation, sending Boney tumbling down a ship staircase.

McRae, 21, hadn't been charged with any crime, yet he was confined to his cabin under round-the-clock guard on Carnival's 2,052-passenger ship Elation. He'd given a statement to ship security officers, but he didn't know who had law enforcement jurisdiction aboard the vessel. He didn't even know whether Boney had survived.



Scott Boney

Meanwhile, Boney lay unconscious with severe head injuries as the Elation sailed off Baja California. Airlifting the 50-year-old La Mesa man wasn't possible because the ship didn't have a suitable helicopter pad. The vessel diverted to Ensenada, Mexico, about 80 miles south of San Diego, where Boney's family arranged to airlift him to a hospital in La Jolla.



Kade McRae

Like most of the 12 million people worldwide taking cruises this year, McRae and Boney probably weren't contemplating the consequences of an accident or crime at sea when they boarded the Elation at the San Diego Cruise Ship Terminal on Sept. 17 for a five-day voyage to Cabo San Lucas.

"The last thing (passengers) are thinking about is crime, but in fact they're in a village of a few thousand people and crimes are going to occur," said Ken Carver of Phoenix, co-founder of the International Cruise Victims Association. His daughter disappeared on a cruise.

"The individual is really on their own" on a ship, Carver said.

Investigating shipboard incidents – and prosecuting when appropriate – is hampered by special maritime laws. A cruise ship is essentially a floating foreign island with shifting legal ties affected by the flag under which it sails, its location in the ocean, its home port and the nationality of its passengers.

The Elation, for example, is owned by Miami-based Carnival, registered in Panama and mostly carries U.S. passengers between its home port of San Diego and tourist destinations along the Baja peninsula.

This isn't to say that there aren't matters to investigate. So far this year, FBI agents in San Diego have looked into 14 serious incidents reported by cruise ships sailing from the

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city, said FBI spokeswoman April Langwell. Four resulted in formal investigations, including the one involving McRae, of Ogden, Utah, and Boney, who owns the Windmill Farms store in San Diego's Del Cerro neighborhood.

The two men didn't know each other before they crossed paths hours after the Elation sailed from San Diego. McRae says he pushed Boney after the grocer threatened and grabbed him, and that he didn't realize Boney was standing close to the edge of a stair landing.

Boney has been in a coma – unable to tell his side – since the incident. He remained in critical condition last night at Scripps Memorial Hospital La Jolla.

Rising concerns over cruise ship crime prompted members of Congress to hold a series of hearings in Washington this year, with the most recent session Sept. 19.

Critics say some criminal events are never reported to law enforcement authorities.

That was the case when Carver's daughter, 40, went missing from a cruise ship sailing off Alaska in 2004. Carver said the ship's operators never reported to authorities that his daughter, Merrian, was missing and only acknowledged weeks after the cruise that she had disappeared while aboard. She was never found.

Cruise industry representatives, however, note that vessel operators have voluntarily reported crimes involving U.S. citizens to the FBI since 1999. The cruise industry reported 207 suspected crimes to the FBI from April to August this year, but the FBI did not consider most of them serious enough for it to investigate.

Cruise ship executives say crime victims are only a tiny fraction of the millions of people who board cruise ships in the United States each year.

"Cruises have an excellent safety and security record, and the cruise industry is committed to the safety of its passengers and crews," said Terry Dale, president of Cruise Lines International Association in Fort Lauderdale, Fla.

Critics say security guards aboard cruise ships are ill-equipped to handle serious crimes that do occur. They say it often takes days for police to arrive on board, leaving ample time for destruction of evidence, collaboration among witnesses and other actions that can jeopardize investigations.

In the Elation case, one of the witnesses said ship security officers weren't interested in hearing his account and took a statement only after he repeatedly demanded to give one. However, Carnival spokesman Tim Gallagher said security officers immediately opened an investigation, which included taking detailed statements from witnesses.

Carnival spokeswoman Jennifer De La Cruz said the company requires on-board security guards to have previous experience in security, the military or law enforcement. She said the guards receive training from federal and local law enforcement agencies on managing crime scenes, conducting investigations and preserving evidence.

Simply identifying the law enforcement agencies responsible for investigating a cruise ship crime can be tricky.

Under international law, a ship is considered an extension of its registering nation, giving that country legal jurisdiction over the vessel when it's at sea. But registering nations, such as Panama, Liberia and the

Questions have been raised about how well the cruise industry protects passengers and investigates shipboard crime.

Cruise operators: Say the level of serious crime is lower than it is on land and that their ships are guarded by experienced security staffs with training in criminal investigation.

Critics: Contend that some onboard incidents are never reported to law enforcement and the question of who should investigate is often unresolved. They want independent law enforcement officers and more surveillance cameras on ships.

Bahamas, typically have little interest in the ships beyond serving as low-tax and limited-regulation shelters for the vessels' owners.

Under the federal Ports and Waterways Safety Act, U.S. authorities have legal jurisdiction over ships carrying U.S. passengers or sailing to and from U.S. ports – even if the vessels sail under foreign flags or outside U.S. territorial waters, said Larry Kaye, a maritime attorney in San Diego who frequently represents Carnival and other lines in liability litigation.

“When Americans go on cruise ships internationally, they have the protection of the FBI,” he said.

That's true in theory, but in practice the FBI said it generally limits its investigations to the most serious crimes involving deaths, missing persons, sexual assaults, non-sexual assaults resulting in serious injuries or theft of items valued at more than \$10,000.

“If something happens, the chances of anybody being prosecuted is slim to none,” said Carver of the International Cruise Victims Association.

Of the 190 serious crimes aboard cruise ships reported to the FBI by ship operators from 2003 to 2006, only 31, or 16 percent, ended with criminal convictions, according to FBI statistics.

Other less serious crimes can be reported to local or state authorities, according to congressional testimony from FBI Deputy Assistant Director Salvador Hernandez.

Officials at the San Diego and San Diego Harbor police departments said they rarely receive reports about crimes on cruise ships and don't have jurisdiction over the vessels.

“We don't investigate cruise ship crimes,” said San Diego Police Department spokesman Gary Hassen.

More than 500,000 cruise passengers came through San Diego last year.

The Coast Guard, which serves as a clearinghouse for reports of criminal activity aboard cruise ships, doesn't investigate either.

Civil lawsuits often offer the only recourse, said Brett Rivkind, a maritime attorney in Miami who specializes in representing cruise ship passengers.

Scott Boney's family has filed a lawsuit in San Diego Superior Court, alleging that McRae was responsible for Boney's injuries, and seeking at least \$100 million in damages.

The cruise victims association wants each vessel to carry independent law enforcement officers, similar to federal marshals who fly on airplanes, and it wants more surveillance cameras, particularly in hallways and stairwells.

That could be a tough sell to an industry that depends on a carefree image to fill staterooms. Carnival, for example, markets its vessels as “fun ships.”

“The argument is ‘We're a cruise ship, not a police state. No one would come on board if we had guards everywhere, and as soon as something happened we sent everyone to their cabins,’” said maritime law professor Robert Jarvis of Nova Southeastern University in Davie, Fla.

On the Elation, McRae spent nearly three days confined to his cabin until FBI agents boarded in Cabo San Lucas and questioned him. No charges have been filed; the FBI will not discuss the status of the case.

A guard stood watch outside the door of the room, which McRae described as a tiny, windowless space that came to feel like a prison cell. He was fed potato chips and sandwiches – mostly peanut butter and jelly.

“I was like, jeez, I'm not a convict,” McRae said. “I just shut off the lights and tried to pass as much time as I could by sleeping.”

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